Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division
255 West Main Street
Charlottesville, Virginia 22902

TONIA WOODSON NEWTON
MICHAEL EARLY WOODSON
DONALD LEWIS WOODSON, JR.,

Plaintiffs,

v. Civil Action No. 3:16-cv-00058-GEC

BENEFICIAL FINANCIAL I, INC.

DITECH FINANCIAL, LLC,
Please Serve:
CT Corporation System
4701 Cox Road, Suite 285
Glen Allen, Virginia 23060,

Defendants.

SECOND AMENDED COMPLAINT

Now come Tonia Woodson Newton ("Newton"), Michael Early Woodson ("Michael Woodson") and Donald Lewis Woodson Jr. ("Donald Woodson") and set forth to the Court the following:

I. Jurisdiction

1. This Court has jurisdiction as to this case under the provisions of 28 U.S.C. § 1331 and 28 U.S. C. Section 1332 because the real parties in interest are citizens of different states and the amount in controversy exceeds $75,000. Newton, Michael Woodson, and

Donald Woodson are all citizens of the Commonwealth of Virginia. The defendant, Beneficial Financial I, Inc. ("Beneficial Financial") is a for-profit corporation existing under the laws of California with its principal place of business in Illinois, and, therefore, is a corporation with diversity as to the Commonwealth of Virginia. Ditech Financial, LLC ("Ditech") is a limited liability. Its members are Walter Management Holding Company, LLC, whose are citizens of Maryland, Florida, Delaware, and Minnesota) and Green Tree Servicing Corp. (which was incorporated under the laws of Delaware with its principal place of business in Minnesota). Therefore, Ditech is a business entity with diversity as to the Commonwealth of Virginia.

2. The amount in controversy exceeds $75,000 because this amended complaint seeks (a) to quiet title as to a disputed second mortgage lien claimed by Ditech, which, if not removed, would constitute a lien on a residence ("the home") located at 1967 Red Hill Road, Gordonsville, Virginia 22942 of approximately $30,749.87; (b) a judgment against Beneficial Financial for $20,000, plus interest; (c) a declaratory judgment that Beneficial Financial is not entitled to foreclose on the home on the basis of a first mortgage lien of approximately $102,007.17; (d) a declaratory judgment that Beneficial Financial is not entitled to certain foreclosure costs, totaling approximately $1,186.50 (the foregoing not including a claim for attorney's fees). Put together, the different parts of the requests for relief in this amended complaint (and in the original complaint), taken together, demonstrate that the amount in controversy in this case, for purposes of diversity jurisdiction exceeds $75,000.

II. Parties

3. Newton, Michael Woodson, and Donald Woodson are natural persons who own the home (which includes land on which the home was built) located mostly in Louisa County, Virginia with a small portion of said land located in Albemarle County, Virginia. The home, as set forth above, has an address of 1967 Red Hill Road, Gordonsville, Virginia 22942 and is more particularly described as follows:

   All that certain lot, piece or parcel of land situated partially in the Rivanna District of Albemarle County, Virginia and partially in the Green Springs District of Louisa County, Virginia, known, numbered and designated as parcel 2, Apple Grove Farms, and more particularly shown on a plat of survey prepared by Dawson, Phillips, Jones and Assoc., P.C. Certified Land Surveyors, entitled "Plat Showing Survey and Parcels 1 through 6 "Apple Grove Farms" being located in the Green Springs District of Louisa County, Virginia and the Rivanna District of Albemarle County, Virginia" dated January 15, 1994, and recorded June 16, 1994 in the Clerk's Office, Circuit Court, Louisa County, Virginia in Deed Book 469, Page 029, to which Plat reference is hereby made for a more particular description of the real estate conveyed. Tax Map or Parcel ID No: 8-2-3.

4. Beneficial Financial is a for-profit business entity doing business in the Commonwealth of Virginia.
5. Ditech is a for-profit business entity doing business in the Commonwealth of Virginia.

III. Venue

6. Venue is proper in this Court because this complaint seeks, *inter alia,* prevention of a foreclosure on the basis of a primary mortgage of a home located partly in Louisa County and partly in Albemarle County, Virginia and seeks to quiet title against a former secondary mortgage that was a lien on the home located in those counties in Virginia.

IV. Facts

Facts Applicable to All Counts

7. On January 26, 2005, the late Judith F. Woodson ("Judith Woodson") owned the home.

8. On January 26, 2005, Judith Woodson entered into a mortgage loan ("the first mortgage loan") in which she was the borrower and Beneficial Mortgage Company of Virginia ("Beneficial Mortgage") was the lender. The first mortgage loan was evidenced by a Loan Repayment and Security Agreement ("the first mortgage debt instrument") signed by Judith Woodson, secured by a deed of trust ("the first deed of trust") signed by her, and recorded in the clerk's office of the Circuit Court of Louisa County, Virginia as Instrument Number 05006875 at Deed Book 0924, beginning at Page 0520, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 3020, beginning at Page 235. The first deed of trust appointed Alonzo D. Robinson ("Robinson") as trustee on the deed of trust.
9. Accompanying this second amended complaint marked "Exhibit A" is a copy of the first mortgage debt instrument.
10. Accompanying this second amended complaint marked "Exhibit B" is a copy of the first deed of trust.
11. On March 30, 2006, Judith Woodson entered into a subsidiary mortgage loan ("the second mortgage loan") in which she was the borrower and Beneficial Discount Company of Virginia ("Beneficial Discount") was the lender. The second mortgage loan was evidenced by a debt instrument ("the second mortgage debt instrument"), signed by Judith Woodson, secured by a subsidiary deed of trust ("the second deed of trust") signed by her, and recorded in the Clerk's Office of the Circuit Court of Louisa County, Virginia as Instrument No. 06004529 at Deed Book 0996, beginning at Page 0669. The second deed of trust appointed Carolann Rist as trustee.

12. Accompanying this second amended complaint marked “Exhibit C” is a copy of the second mortgage debt instrument.

13. Beneficial Financial succeeded to the interest of Beneficial Mortgage. Beneficial Financial also succeeded to the interests of Beneficial Discount.

Count One – Action to Quiet Title Against Cancelled Second Deed of Trust

14. Newton, Donald Woodson, and Michael Woodson aver that, after succeeding to the interest of Beneficial Discount, Beneficial Financial cancelled the second mortgage debt instrument, and cancelled the lien of the second deed of trust. The facts in support this averment include but are not limited to the following:

    A. Accompanying this second amended complaint, marked “Exhibit D” is a copy of a document produced by Beneficial Financial confirming the cancellation of the second mortgage loan (and confirming cancellation of the second mortgage debt instrument and cancellation of the second deed of trust).

    B. Beneficial Financial obtained a tax benefit by reason of cancellation of the second mortgage loan and by cancellation of the second deed of trust and Judith Woodson obtained a tax liability by reason of such cancellation of the second mortgage loan and the second deed of trust.

    C. Prior to her death, Judith Woodson had a telephone conversation with a representative of Beneficial Financial who told her that she did not need to make payments on the second mortgage loan.

    D. After the March 20, 2015 death of Judith Woodson, Beneficial Financial denied a request for a short sale of the home on grounds “There is sufficient equity in the property to pay off the loan in full.” Accompanying this second amended complaint marked "Exhibit E" is a copy of that denial. This position by Beneficial Financial only made sense on the basis of the second mortgage loan having been cancelled because, if the home had been subject to the lien of both the first deed of trust and the second deed of trust the home would have been underwater (having less value than the combination of the liens of the first deed of trust and second deed of trust).

E. Subsequent to the death of Judith Woodson, counsel for Newton, Donald Woodson, and Michael Woodson, by counsel, called for lender release of the lien of the second deed of trust; the lender response was referral to a "lien release" department, which constituted some indication of lender recognition that the second mortgage loan had been cancelled.

F. After the death of Judith Woodson, a lender representative told Newton that no payments were required on the second mortgage loan.

15. On March 18, 2015, Judith Woodson and Donald Woodson entered into a contract for sale of the home by Judith Woodson to Donald Woodson. The sales contract was a family contract based on a family price, sufficient to satisfy the lien of the first deed of trust, based on release of the lien of the second deed of trust. Accompanying this amended complaint marked "Exhibit F" is a copy of that contract.

16. On March 20, 2015, Judith Woodson died intestate.

17. Judith Woodson left as her sole heirs at law her three children, Newton, Michael Woodson, and Donald Woodson. Accompanying this amended complaint marked "Exhibit G" is a Real Estate Affidavit by Newton which was recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Court File No. 2015-03202105.

18. Accompanying this second amended complaint marked "Exhibit H" is a list of heirs of Judith Woodson showing that Newton, Michael Woodson, and Donald Woodson are her heirs-at-law.

19. Newton, Michael Woodson, and Donald Woodson, by counsel, repeatedly sent written requests to Beneficial Financial calling on Beneficial Financial to meet its obligation under Virginia law to cause removal of record of the second mortgage lien on the home. Copies of such written requests accompany this second amended complaint marked "Exhibit I."

20. Despite the requests set forth in Exhibit I Beneficial Financial never took the actions it was required to take under Virginia law to remove the lien on the home represented by the second deed of trust.

21. If Beneficial Financial had acceded to the requests set forth in Exhibit I, Newton, Michael Woodson and Donald Woodson, the heirs at law of Judith Woodson, would have been able to complete the contract represented by Exhibit F and, at all relevant times, Newton, Michael Woodson and Donald Woodson, the heirs at law of Judith Woodson, as Grantors, would have been willing and able to do so and Donald Woodson, as Grantee, would have been willing and able to do so. Accompanying this second amended complaint marked "Exhibit J" is a pre-approval of Donald Woodson for a loan to allow him to perform his obligation set forth in Exhibit F. Donald Woodson, either by means of the loan he expected based on Exhibit J or otherwise, would have obtained the wherewithal to make the payment called for by him in Exhibit F. This would have resulted in full satisfaction of the first mortgage debt and removal of the lien of the first deed of trust.

22. As will be set forth herein below in this second amended complaint, Beneficial Financial took steps to seek to foreclose on the home, which proximately resulted from the failure of Beneficial Financial to meet its obligations to remove the first mortgage deed of trust as a lien on the home. In taking action to seek to foreclose on the home, Beneficial Financial caused a foreclosure of the home to be scheduled for July 12, 2016, which would not have been scheduled had Beneficial Financial taken action as required by Virginia law to remove the lien on the home of the second deed of trust.

23. The actions by Beneficial Financial in refusing to take action to remove the lien on the home of the second deed of trust has harmed the plaintiffs in this case and continues to harm them.

24. Ditech currently claims to have been assigned the rights to the second mortgage loan.

25. Ditech paid money to Beneficial for such assignment. However, at the time Ditech obtained such purported assignment, the note had been released by Beneficial, so that Ditech purchased a worthless purported second mortgage loan, so that its remedy should be against Beneficial.

26. Because of the facts set forth in this Count of this second amended complaint, Newton, Michael Woodson and Donald Woodson are entitled to entry of an Order quieting their title to the home free of the lien of the second deed of trust by entry of an Order striking the second deed of trust from the public land records.

Count Two: Claim Pursuant to Va. Code Ann. Section 55-66.5 Seeking an Order For Removal of the Lien of the Second Deed of Trust, and for Attorney's Fees.

27. Newton, Michael Woodson, and Donald Woodson re-aver the facts set forth in Count One of this second amended complaint.

28. The requests for release of the lien of the second deed of trust, as set forth in Exhibit I to this amended complaint, were sent at or about the dates set forth in the documents, of which copies are Exhibit I.

29. Much more than the time provided for in Va. Code Ann. Section 55-66.5 elapsed without any action by Beneficial Financial to remove from the public land records the lien on the home of the second deed of trust.

30. Beneficial Financial has taken no action to remove the lien against the home of the second deed of trust in the public land records, nor has Ditech taken any such action.

31. As a result of the foregoing, Newton, Michael Woodson and Donald Woodson are entitled to relief pursuant to Va. Code Ann. Section 55-66.5, including an order removing the second deed of trust as a lien on the home and entry of an order requiring Beneficial Financial to pay reasonable attorneys' fees to counsel for Newton, Michael Woodson, and Donald Woodson for preparing, filing, and maintaining this Count of this second amended complaint.

Count Three: Claim Against Beneficial Financial for Compensatory Damages for Refusal to Remove the Second Deed of Trust Lien From the Public Land Records

32. Newton, Michael Woodson, and Donald Woodson re-aver the facts set forth in Count One and Count Two of this second amended complaint, except for the averments as to remedy.

33. As a proximate cause of the failure of Beneficial Financial to remove the lien against the home of the second deed of trust, the equity of Newton, Michael Woodson, and Donald Woodson in the home was reduced by the interest that has accrued on the first mortgage debt instrument, because that interest would have been avoided if Newton, Michael

Woodson and Donald Woodson had been able to perform on the contract which was Exhibit F, which would have resulted in payment in full of the first mortgage debt instrument with no interest accruing thereafter on that debt.

34. Further, in order to prevent a wrongful foreclosure of the home, Newton was required to post a $3,000 bond, and has lost the value of the use of that amount of money.

35. As a result of the facts set forth in this Count of this second amended complaint, Newton, Michael Woodson, and Donald Woodson are entitled to entry of a judgment in their favor against Beneficial Financial for their damages recited in paragraphs (33) and (34) of this second amended complaint, plus the said interest that continues to accrue until the conclusion of this case, and post-judgment interest on the same until paid.

Count Four: Claim Seeking Declaratory Judgment Action That Defendants Are Not Entitled To Foreclose on the Home Or to Add to the Lien of the Deed of Trust Costs for Scheduling Foreclosures Because of Its Failure to Remove the Lien of The Second Deed of Trust in the Public Land Records

36. Newton, Michael Woodson, and Donald Woodson re-aver the facts set forth in Counts One, Two, and Three of this second amended complaint, except for the averments as to remedy.

37. Beneficial Financial executed a document dated June 3, 2016 which stated that it removed Robinson as trustee on the first deed of trust and appointed Surety Trustees as substitute trustee on the first deed of trust. A copy of that document accompanies this second amended complaint marked "Exhibit K."

38. Beneficial Financial instructed Surety Trustees to foreclose on the home. However, Beneficial Financial was not entitled to foreclose on the home and Surety Trustees was not entitled to conduct a foreclosure of the home because Beneficial Financial, through its

aforesaid actions, prevented a pay-off of the first mortgage debt instrument and satisfaction of the first deed of trust because of its failure to remove the lien in the public land records of the second deed of trust, although it was required by law to remove such lien and because it accepted money from Ditech to purport to assign to Ditech the lender rights as to the second mortgage loan.

39. In response to the instruction by Beneficial Financial to foreclose on the home, Surety Trustees scheduled a foreclosure of the home for 2:15 p.m. on July 12, 2016. However, Beneficial Financial was not entitled to foreclosure of the home and Surety Trustees was not entitled to conduct a foreclosure auction at such time or on such date for the reasons set forth herein above in this second amended complaint.

40. After this suit was originally filed in the Circuit Court of Louisa County, Virginia, that court, after a contested emergency hearing, entered an injunction order preventing foreclosure of the home on July 12, 2016, conditioning such injunction on the posting by or on behalf of Newton, Michael Woodson, and Donald Woodson of a $3,000 bond in spendable funds, or by an irrevocable letter of credit. Newton timely posted a bond of $3,000 in spendable funds, as a result of which the July 12, 2016 foreclosure was cancelled.

41. Beneficial Financial incurred expenses in excess of $500 to plan for a foreclosure of the home for July 12, 2016, and took steps to add all of such costs to the lien of the first deed of trust, but was not entitled to do so, for the reasons set forth herein above in this second amended complaint.

42. For the reasons set forth herein above in this Count of this second amended complaint, Newton, Michael Woodson, and Donald Woodson are entitled to a declaratory judgment

that Beneficial Financial is not entitled to add to the lien of the first deed of trust any of its costs recited in paragraph (41) of this second amended complaint.

43. For the reasons set forth herein above in this Count of this second amended complaint, Newton, Michael Woodson, and Donald Woodson are entitled to entry of a declaratory judgment that Beneficial Financial is not entitled to foreclose on the home unless and until the lien of the second deed of trust is removed (thereby allowing for sale of the home, probably by means of a family sale, with satisfaction of the lien of the first deed of trust).

44. As to the matters set forth in this Count of this second amended complaint, the rights of Newton, Michael Woodson, and Donald Woodson are in doubt and in peril.

Count Five: Action Seeking Declaratory Judgment That Defendants Are Not Entitled To Add to the Lien of the Deed of Trust Costs for Scheduling A Foreclosure for July 12, 2016 Because of Non-Compliance with Va. Code Ann. Section 55-59.1 As To the Unavailability of the First Mortgage Debt Instrument

45. Newton, Michael Woodson, and Donald Woodson re-aver the facts set forth in Counts One, Two, Three, and Four of this second amended complaint, except for the averments as to remedy.

46. Va. Code Ann. Section 55-59.1 provides that a lender is not precluded from foreclosure by reason of unavailability of a debt instrument if the lender provides to the trustee an affidavit of such unavailability and sends a notice to the borrower that such debt instrument in unavailable and which, *inter alia*, (a) identifies the trustee on the deed of trust; and (b) gives the borrower notice that the borrower may seek a court order to seek to require the lender to protect the borrower against any other holder of the note.

47. Accompanying this second amended complaint marked "Exhibit L" is a notice sent by McCabe, Weisberg & Conway, LLC as counsel for Beneficial Financial.

48. At the time Exhibit L was sent, Robinson was trustee on the deed of trust.

49. At the time Exhibit L was sent, Beneficial Financial had not provided Robinson any affidavit that complied with the requirement recited in paragraph 46 of this second amended complaint.

50. Exhibit L did not identify Robinson as trustee, although Robinson was trustee at the time Exhibit L was sent.

51. As a result of the facts recited herein above in this Count of this second amended complaint, Beneficial Financial has not complied with the requirements of Va. Code Ann. Section 55-59.1 to allow foreclosure despite unavailability of the first mortgage debt instrument.

52. Independent of the reasons set forth in Count Four of this second amended complaint, because of the facts set forth above in this Count of this second amended complaint, Beneficial Financial is not entitled to foreclose on the home and Surety Trustees is not empowered to foreclose on the home unless and until there is compliance with Va. Code Ann. Section 55-59.1 as to the unavailability of the first mortgage debt instrument.

53. For the reasons set forth in this Count of this second amended complaint, Newton, Donald Woodson, and Michael Woodson are entitled to a declaratory judgment (a) that Beneficial Financial is not entitled to foreclose on the home unless and until there is compliance with Va. Code Ann. Section 55-59.1 as to the unavailability of the

first mortgage debt instrument.

54. For the reasons set forth herein above in this Count of this second amended complaint, Newton, Michael Woodson, and Donald Woodson are entitled to a declaratory judgment that Beneficial Financial is not entitled to add to the lien of the deed of trust any of its costs associated with scheduling the home for foreclosure on July 12, 2016.

55. As to the matters set forth in this Count of this second amended complaint, the rights of Newton, Michael Woodson, and Donald Woodson are in doubt and in peril.

Count Six: Suit for Declaratory Judgment as to the Status of the First Mortgage Loan

56. Newton, Donald Woodson, and Michael Woodson re-aver the facts set forth in Counts One, Two, Three, Four, and Five of this second amended complaint except for their averments as to remedy.

57. Accompanying this second amended complaint marked "Exhibit M" is a document sent by Beneficial Financial claiming the right to bogus foreclosure costs, bogus interest charges, and bogus attorney's fees, none of which are owed as to the first mortgage debt instrument.

58. Judith Woodson and Beneficial Financial entered into a loan modification in 2014. However, Beneficial Financial currently does not give credit to some of the aspects of the said modification.

59. As a result of the facts set forth in this Count of this second amended complaint, Newton, Michael Woodson, and Donald Woodson are entitled to entry of a declaratory judgment declaring the actual status of the first mortgage loan and the action lien on the home of the first mortgage lien.

60. As to this Count of this second amended complaint, the rights of Newton, Michael

Woodson, and Donald Woodson are in doubt and in peril.

V. Call for Trial By Jury

61. Newton, Michael Woodson, and Donald Woodson call for trial by jury.

Conclusion

WHEREFORE, Newton, Michael Woodson, and Donald Woodson pray that the Court:

A. Enter an order striking the second deed of trust from the public land records.

B. Enter a declaratory judgment that Beneficial Financial is not entitled to any foreclosure action as to the home so long as the lien of the second deed of trust remains of record in the public land records.

C. Enter a declaratory judgment that Beneficial Financial is not entitled to add to the lien of the first deed of trust any of its costs for scheduling any foreclosure of the home, including but not limited to scheduling a foreclosure on July 12, 2016;

D. Enter a declaratory judgment of the status of the first mortgage debt instrument.

E. Enter a judgment in favor of Newton, Michael Woodson, and Donald Woodson against Beneficial Financial for $20,000, plus post-judgment interest.

F. Enter an order requiring Beneficial Financial to pay the reasonable attorney's fees of counsel for Newton, Donald Woodson, and Michael Woodson for preparing, filing, and maintaining Count Two of this second amended complaint.

Respectfully submitted,

TONIA WOODSON NEWTON
MICHAEL EARLY WOODSON
DONALD LEWIS WOODSON, JR.,

By____/s/ Henry W. McLaughlin ___
Counsel

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CERTIFICATE

I, Henry W. McLaughlin, counsel for plaintiffs, hereby certify that on the 19th day of December, 2016, the foregoing will be filed electronically with the ECF filing System of the U.S. District Court for the Western District of Virginia – Charlottesville, Virginia, which will electronically notify the following counsel of such filing:

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